

Amendment No. 1 to HB0107

Hill M  
Signature of Sponsor

**AMEND Senate Bill No. 139**

**House Bill No. 107\***

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Chapter 297 of the Private Acts of 1976, as amended by Chapter 125 of the Private Acts of 1977, and any other acts amendatory thereto, is amended by deleting Section 1 and by substituting instead the following as a new Section 1:

Section 1.

A governmental Hospital Authority known as the Chattanooga – Hamilton County Hospital Authority, having been established by Chapter 297 of the Private Acts of 1976 as amended by Chapter 125 of the Private Acts of 1977, Chapter 80 of the Private Acts of 1985; and other subsequent private acts shall hereafter operate in accordance with this Act. The purpose of the Hospital Authority is to operate Erlanger Health System, including Baroness Erlanger Hospital, T.C. Thompson Children's Hospital and such other facilities and services as determined by the Hospital Authority's Board of Trustees. The facilities and services of the Hospital Authority shall be made available without regard to race, religion or national origin, and to indigent patients, including patients identified as indigent by the County Auditor, in accordance with policies established by the Board of Trustees.

SECTION 2. Chapter 297 of the Private Acts of 1976, as amended by Chapter 125 of the Private Acts of 1977, and any other acts amendatory thereto, is amended by deleting Section 4 and by substituting instead the following:

Section 4.

Whenever used in this act, unless a different meaning clearly appears from the context, the following terms whether used in the singular or the plural shall be given the following respective interpretations:

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“Authority” or “Hospital Authority” means the Chattanooga-Hamilton County Hospital Authority as created by this act;

"Board of Commissioners" means the Board of Commissioners of the City;

“Board of Trustees” means the Board of Trustees of the Authority as provided for in this act;

"Bonds" means bonds of the authority authorized to be issued by this act.

'Advance refunding bonds' means bonds issued for the purpose of refunding outstanding bonds which will neither mature by their terms nor be subject to and called for redemption within a period of 30 days following the date of issuance of said advance refunding bonds;

"Chancellors" means Chancellors of the Chancery Courts of Hamilton County, Tennessee;

"Chief Executive Officer" means, as the context requires, the president of the authority, the mayor of the city, and the county judge of the county;

“City” means the City of Chattanooga, Tennessee;

“Community” means Hamilton County, Tennessee and the surrounding area;

“County” or “Hamilton County” means Hamilton County, Tennessee;

“County Auditor” means the auditor for Hamilton County designated by the County Commission;

“County Commission” means the County Commission of Hamilton County;

"County Judge" means the county judge or such other chief executive officer of the county as may be created by subsequent law;

“County Mayor” means the Mayor of Hamilton County;

“Erlanger Health System” means the facilities and services operated by the Authority, including without limitation Baroness Erlanger Hospital and T.C. Thompson Children’s Hospital;

“Financial Review Committee” means the Financial Review Committee provided for in this act;

“Legislative Delegation” means the Hamilton County delegation to the Tennessee General Assembly, being the Senators and Representatives elected from those districts lying in whole or in part in the county;

“Mayor” means the mayor of the city or such other chief executive officer of the city as may be created by subsequent law;

“Notes” means notes of the authority authorized to be issued by this act. “Short-Term Notes” means nonrenewable notes having a term no longer than three (3) years. “Long-Term Notes” means renewable short-term notes and notes having a term longer than three (3) years; and

“Project” or “Facility” shall mean any one or combination of buildings, structures, facilities or services owned or operated by the Authority, including the site therefore and all machinery and equipment therein or necessary to the operation thereof.

SECTION 3. Chapter 297 of the Private Acts of 1976, as amended by Chapter 125 of the Private Acts of 1977, Chapter 71 of the Private Acts of 2012, and any other acts amendatory thereto, is amended by deleting Section 3 and by substituting instead the following as a new Section 3:

Section 3.

(a) Upon approval of this act in accordance with SECTION 14, the Board of Trustees of the Authority shall be reconstituted and thereafter it shall operate in accordance with this act. The Board of Trustees shall be reflective of the community and composed of nine (9) individuals as voting members. Seven (7) members of the Board shall be community residents selected as provided in subsections (b) and (c) and referred to herein as “community members.” At least one (1) of the community members

shall have experience in corporate compliance as an attorney or otherwise. One (1) of the members shall be the chief of the medical staff of Erlanger Health System or the chief of the medical staff's designee, and referred to herein as "medical staff member." One (1) member of the Board of Trustees shall be an individual who serves as faculty or in administration of an institution of higher learning accredited by an agency recognized by the Tennessee Department of Education and Council on Higher Education and referred to herein as "academic member." The community members shall establish the qualifications, term and limitations on the term of service of the academic member.

(b) The Legislative Delegation, after consultation with the Mayor of Hamilton County recommend to the Tennessee General Assembly the nominees for members of the Board of Trustees. The General Assembly shall appoint the initial Board of Trustees, except for the medical staff board member who serves by reason of the member's position, and the academic board member who will be appointed by the community members subject to subsection (a) above. The term of office for community members shall be three (3) years, provided the initial appointments by the General Assembly of the community members shall be for staggered terms, so that two (2) such members have an initial term of one (1) year; two (2) such members shall have an initial term of two (2) years; and three (3) such members shall have an initial term of three (3) years. The medical staff member shall serve on the Board of Trustees concurrent with their appointment as Chief of Medical Staff of Erlanger Health System. The General Assembly shall also designate one of the community board members to be initial chairman or chairwoman of the Board of Trustees, and the member so designated shall serve in this capacity until the end of their term on the Board of Trustees, unless reelected in accordance with procedures established by the Board of Trustees.

(c) All members of the board shall reside in Hamilton County, Tennessee or in Tennessee and Georgia counties contiguous to Hamilton County. At least seven (7) of the nine (9) members shall be full-time residents of Hamilton County, Tennessee.

(d)

(1) No individual may serve as community member for more than three (3) terms. Upon the vacancy of any seat on the Board of Trustees, other than the medical staff member, for any reason, the remaining members shall fill the vacancy by a majority vote of the Board of Trustees remaining in office in accordance with subdivision (2).

(2) When the remaining members of the Board of Trustees elect a person to fill a vacant seat, such person's name shall be submitted in writing to the Legislative Delegation and to the County Mayor. If both the Legislative Delegation and the County Commission, within thirty (30) days of receipt of the name, adopt by majority vote resolutions disapproving of such person for service on the Board of Trustees and specifying the reasons for disapproval, then such person shall be disqualified from serving on the Board of Trustees. If a person is disapproved in accordance with this paragraph, the remaining members of the Board of Trustees shall undertake to elect a different person to fill the vacancy.

(e) Subject to subsection (b) above, the Board of Trustees shall be authorized to elect one (1) or more officers and to create from its members one (1) or more committees including, without limitation, a finance committee and audit committee, which committees will have the duties and responsibilities determined by the Board of Trustees.

(f)

(1) The Board of Trustees shall appoint an external audit committee composed of the County Auditor and at least two (2) residents of Hamilton County knowledgeable in financial and health care matters. The external audit committee shall attend all meetings of the Audit Committee of the Board of Directors. Before taking any action to approve the issuance of bonds or long-term notes or to approve a budget of the Authority, the Board of Trustees shall request comment and guidance from the external audit committee. The Board of

Trustees may request the external audit committee to provide advice and guidance relative to financial planning and analysis matters.

(2) The members of the external audit committee shall serve without compensation, but may be reimbursed the reasonable cost of attending meetings. The members of the external audit committee shall be indemnified by the Authority for any liability they may incur for acts occurring in their official capacity, to the same extent and subject to their same limitations applicable to the indemnification by the Authority of members of the Board of Trustees.

SECTION 4. Chapter 297 of the Private Acts of 1976, as amended by Chapter 125 of the Private Acts of 1977, and any other acts amendatory thereto, is amended by deleting Section 8 in its entirety and by substituting instead the following:

Section 8.

The board shall establish policies and procedures for the removal of a board member to include, without limitation, removal for the following reasons:

(1) Refusal or inability of a member of the Board of Trustees to perform their duties as a member of the board in accordance with the standards of conduct referenced in Section 19;

(2) Misuse of the office by a member of the board to obtain personal, pecuniary, or material gain or advantage for themselves or another; or

(3) Material violation of any provision of this act or any policy or procedure adopted by the Board of Trustees.

SECTION 5. Chapter 297 of the Private Acts of 1976, as amended by Chapter 125 of the Private Acts of 1977, Chapter 99 of the Private Acts of 1985, and any other acts amendatory thereto, is amended by deleting Section 6 and by substituting instead the following as a new Section 6:

Section 6.

(a) The Board of Trustees shall be vested with the full, absolute and complete authority and responsibility for the complete operation, management, conduct and

control of the business and affairs of the Authority herein created. The Board of Trustees shall exercise its duties and responsibilities consistent with the standards of conduct and obligations described in Section 19. The authority and responsibility of the Board of Trustees shall include, but shall not be limited to, the establishment, promulgation and enforcement of the rules, regulations and policies of the Authority, the granting of or the refusal of medical staff privileges, the upkeep and maintenance of all property, the administration of all financial affairs of the Authority, including pledging of assets for expansion and improvement of facilities and any other necessary financial needs of the Authority. The Authority shall have, but shall not be limited to, the following powers together with all powers incidental thereto or necessary for the performance of those hereinafter stated:

(1) To sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties;

(2) To have and use an official seal and to alter the same at pleasure;

(3) To acquire, whether by purchase, construction, exchange, gift, lease, or otherwise, and to improve, maintain, extend, equip and furnish hospital and related facilities wherever located, including expressly, but without limitation, professional office buildings, ancillary residence facilities and data processing facilities, and including all real and personal properties which the Board of Trustees may deem necessary in connection therewith and regardless of whether or not any such facilities shall then be in existence;

(4) To execute all contracts, agreements and other instruments with any person, partnership, corporation, federal, state, county or municipal government, including but not limited to the issuance of bonds, mortgages, notes and other forms of indebtedness, and contracts for the management of hospital and clinic facilities for the purpose of carrying out any of its business;

(5) Subject to the provisions of this section, to sell, lease, exchange, donate, and convey any or all of its properties whenever its Board of Trustees

shall find any such action to be in furtherance of the purposes for which the Authority was created;

(6) As security for the payment of the principal of and interest on any bonds and notes so issued and any agreements made in connection therewith, to mortgage and pledge-any or all of its facilities or any part or parts thereof, whether then owned or thereafter acquired, and to pledge all or any portion of the revenues and receipts therefrom or from any thereof;

(7) To employ and pay compensation to such employees, and agents, including attorneys, accountants, engineers, architects and financial consultants, as the Board of Trustees shall deem necessary for the business of the Authority; and

(8) To establish bylaws, make all rules and regulations and implement policies and procedures not inconsistent with the provisions of this act, deemed expedient for the management of the Authority's affairs.

(b) The Board of Trustees shall adopt policies and procedures to assure that the Authority purchases goods and services at competitive prices.

(c) The Board of Trustees shall adopt policies and procedures that (1) clearly define circumstances that constitute a prohibited conflict of interest for members of the Board of Trustees and management personnel within the Authority, and (2) state the consequences of engaging in prohibited conduct.

(d) The Board of Trustees shall have the authority to employ or contract with and fix the compensation of a chief executive officer of the facilities and services operated by the Authority. The Board of Trustees shall from time to time determine and prescribe the duties and responsibilities of such chief executive officer. The Board of Trustees shall require all employees receiving and disbursing funds of the Authority to be adequately bonded.

(e) The Board of Trustees shall annually submit to the General Assembly, County Commission, and County Mayor for informational purposes an audited financial



statement prepared by an independent certified public accounting firm for the preceding fiscal year and an annual budget for the next fiscal year reflecting in detail all estimated revenue and expenses of the Authority.

(f) The Authority may reimburse members of the Board of Trustees the reasonable expense of attending meetings, including training and strategic planning meetings, but members of the Board of Trustees shall otherwise serve without compensation.

(g) Any debt or obligation of the Authority incurred by a predecessor board shall be assumed by the board established pursuant to this 2013 act.

SECTION 7. Chapter 297 of the Private Acts of 1976, as amended by Chapter 125 of the Private Acts of 1977, and any other acts amendatory thereto, is amended by deleting Section 8 in its entirety.

SECTION 8. Chapter 297 of the Private Acts of 1976, as amended by Chapter 125 of the Private Acts of 1977, and any other acts amendatory thereto, is amended adding following as a new Section 23:

Section 23.

(a) In the event the Authority or its successor shall at any time cease to operate or own Baroness Erlanger Hospital, T.C. Thompson Children's Hospital or other associated hospitals and health centers located on the real estate which was owned on August 5, 1976, by the county and the city and conveyed to the Authority by the county and the city, such real estate shall revert in fee simple to the county, subject to such encumbrances as may be on said property at the time of reversion; provided, however, that the city shall have an option to require transfer to it of the title to the same proportion of such real estate as was owned by the city on such date, subject to such encumbrances on that portion of the real estate.

(b) If the Authority or its successor shall at any time cease to use any parcel or parcels of real estate described in the preceding subsection for hospital or related purposes for a period of two (2) years, then the county and the city shall have the option

to require transfer to them of title to such parcel or parcels in fee simple, subject to such encumbrances as may be on said property at the time of such transfer of title, in the same proportion as such parcel or parcels were previously owned by the county and the city. In the event that either the county or the city shall elect not to exercise its option with respect to any such parcel or parcels of real estate, then the other of them shall have the option to require transfer to it of the entire parcel or parcels of real estate in question. In the event that neither the county nor the city decides that they wish to exercise said option, then the Authority shall have the right to dispose of such property in whatever manner it deems appropriate.

(c) Nothing in this section shall be construed as creating any financial obligation on the county or city with respect to the Authority except to the extent of encumbrance on real estate transferred to the city or county in accordance with this section.

SECTION 9. Chapter 297 of the Private Acts of 1976, as amended by Chapter 125 of the Private Acts of 1977, and any other acts amendatory thereto, is amended by deleting Section 19 and by substituting instead the following as a new Section 19:

Section 19.

The Authority shall be a public benefit nonprofit corporation and no part of its net earnings remaining after payment of its expenses shall inure to the benefit of any individual, firm or corporation. The Board of Trustees is authorized to undertake any action consistent with this Act and authorized or permitted by the general law applicable to public benefit nonprofit corporations and to hospitals and hospital authorities created by private act of the General Assembly. Members of the Board of Trustees shall be subject to and conduct themselves in accordance with the general law applicable to members of a board of directors of a public benefit nonprofit corporation.

SECTION 10. Chapter 297 of the Private Acts of 1976, as amended by Chapter 125 of the Private Acts of 1977, and any other acts amendatory thereto, is amended by deleting Section 13 and by substituting instead the following as a new Section 13:

Section 13.

To the extent this act conflicts with or is inconsistent with any private acts, city ordinances or resolutions, county ordinances or resolutions, court or executive orders dealing with the organization, operation and control of the Authority, Erlanger Health System, Baroness Erlanger Hospital or T.C. Thompson Children's Hospital, the provisions of this act shall control.

SECTION 11. Chapter 297 of the Private Acts of 1976, as amended by Chapter 125 of the Private Acts of 1977, and any other acts amendatory thereto, is amended by deleting Section 21 and by substituting instead the following as a new Section 21:

Section 21.

Nothing contained in this act shall be construed:

- (1) as creating a new or replacement authority or political subdivision; or
- (2) to impair any contract rights that existed prior to the effective date of this act.

SECTION 12. Chapter 297 of the Private Acts of 1976, as amended by Chapter 125 of the Private Acts of 1977, Chapter 80 of the Private Acts of 1980, and any other acts amendatory thereto, is amended by deleting the following language from Section 12:

In any event, the annual appropriation to the Chattanooga Hamilton County Hospital Authority shall not be less than \$3,000,000 in each fiscal year without approval of the Authority, so long as the 1966 Hamilton County Sales Tax Agreement is in effect.

And by substituting instead the language:

In any event, the annual appropriation to the Chattanooga Hamilton County Hospital Authority shall not be less than \$1,000,000 in each fiscal year without approval of the Authority; provided, that beginning in fifth year after this 2013 act takes effect and annually thereafter, the required annual appropriation shall be adjusted for inflation based on amount used in the prior year in accordance with the consumer price index (all items-city average), as published by the United States department of labor, bureau of labor statistics.

SECTION 13. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 14. This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of Hamilton County. Its approval or non-approval shall be proclaimed by the presiding officer of the county legislative body of Hamilton County and certified to the Secretary of State.

SECTION 15. For the purposes of approving or rejecting the provisions of this Act, it shall be effective upon becoming law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 14.